

**REMARKS/ARGUMENTS**

Reconsideration of this application in light of the above amendments and following comments is courteously solicited.

The Examiner rejected previously submitted independent claim 25 under 35 U.S.C. 103 as being unpatentable over U.S. '722 in view of U.S. '672. Applicant respectfully requests the Examiner to reconsider this rejection in light of the amendments made to independent claim 25.

Independent claim 25 has been amended so as to set forth the relationship between the displacement ram and the water-cooled ram and the fact that a space is formed at the vertex end of the water-cooled ram when the displacement ram is in a first position and the end of the displacement ram is in a plane with the vertex end of the water-cooled ram when the displacement ram is in a second position. In addition, claim 25 has been amended so as to set forth an edible consumable material. It is respectfully submitted that the prior art cited by the Examiner fails to teach, disclose, suggest, or render obvious the subject matter of claim 25 as amended.

With reference to the primary reference to Binly, U.S. 5,409,722, it should be noted that the injection rod 9 does not assume two different positions within the channel 8 of the die part 2 as currently claimed. The secondary reference to Vos, U.S. 5,102,672 does not cure the deficiencies of the primary reference. It is respectfully submitted that claim 25 is patentable over the cited and applied prior art.

With regard to independent claim 26, independent claim 26 has been amended so as to set forth that the water-cooled ram has a vertex region and an axial bore communicates with the vertex region. In addition, claim 26 has been amended so as to set forth that the consumable material is a chocolate material.

Finally, claim 26 has been amended so as to set forth that the source of gas is at ambient temperature. It is respectfully submitted that claim 26 as amended patentably defines over the Czetli document, U.S. 3,587,132. Initially, it is noted that ram portion of the '132 document does not have a vertex end. In addition, it should be noted that the material injected into the tube 35 is steam which would be totally unsuitable for the production of a chocolate material in a mold as the chocolate material would be liquid with steam injection. Accordingly, it is submitted that claim 26 as amended defines over the Czetli '132 document.

With regard to independent claim 27, independent claim 27 has been amended so as to set forth means for adjusting the pressure of the cooling water from a pressure  $P_1$  to a pressure  $P_2$  wherein  $P_2$  is greater than  $P_1$ . Claim 27 further sets forth that when the water-cooled ram is in the second position the sheath is opposed to a first pressure  $P_1$  and thereafter a second cooling water pressure  $P_2$ . The prior art cited by the Examiner fails to teach, suggest, or render obvious such a means for providing sequential pressurization of the flexible sheath in the manner claimed in independent claim 27.

With regard to independent claim 28, independent claim 28 has been amended so as to define the vertex region of the water-cooled ram, that the passage is provided at the vertex region and that a diaphragm is located at the vertex region for displacement under cooling water pressure. Such a structure is not shown or disclosed in the references cited by the Examiner, specifically the Johnson '415 or the Cartwright '483 documents.

In light of the foregoing, it is respectfully submitted that all of the claims as pending patentably define over the art of record and the early issuance of a formal notice of allowance

is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

By /Gregory P. LaPointe #28395/  
Gregory P. LaPointe  
Attorney for Applicant  
Reg. No.: 28,395

Telephone: 203-777-6628  
Telefax: 203-865-0297

Date: October 22, 2010